

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAMON APPLEWHITE,

Plaintiff,

v.

Case No. 2:17-cv-11132  
District Judge Linda V. Parker  
Magistrate Judge Anthony P. Patti

FCA US LLC,

Defendant.

---

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S  
MOTION TO COMPEL AND REQUEST FOR EXTENSION OF  
SCHEDULING ORDER (DE 16)**

This matter is before the Court for consideration of Plaintiff's motion to compel and request for extension of scheduling order (DE 16), Defendant's response in opposition (DE 20), Plaintiff's reply (DE 21), and the parties' Joint List of Unresolved Issues (DE 24). Judge Parker referred this motion for hearing and determination on November 28, 2017. (DE 22.)

Plaintiff's motion came before the Court for a hearing on December 12, 2017, at which attorneys Darcie R. Brault and Deborah Brouwer appeared. After a brief conference with me in chambers, and then engaging in a further meet and confer conference in the courtroom at the Court's direction, counsel for the parties informed the Court that they had resolved several of the matters that had been the

subject of Plaintiff's motion. Counsel for the parties placed a stipulation as to these resolved matters on the record.

#### **A. Motion to Compel**

Plaintiff's motion to compel as to **Interrogatory Nos. 4 (sic), 5, 8 and 11** and **Request for Production Nos. 2, 4, 6 and 7** has been resolved.

Further, Defendant has agreed to respond and/or produce documents in response to the following discovery requests: **Interrogatory Nos. 1, 2 (as to #2, limited to the position of “floater” in the Inspection Department), 3, 4, 6, 7 and 9**, and **Request for Production Nos. 1, 3, 5, 8, 11, 12 and 14 (with respect to #14, to state that no responsive documents exist)**. All responses and responsive documents must be served by **January 15, 2018**.

The parties agreed that only **Interrogatory No. 9** and **Request for Production Nos. 10 and 13** remain in dispute. As to these remaining issues, consistent with my findings and reasoning stated on the record, which are hereby incorporated by reference, Plaintiff's motion to compel (DE 16), as narrowed by the December 8, 2017 joint list of unresolved issues (DE 24) and the aforementioned stipulation, is **GRANTED IN PART** and **DENIED IN PART** as follows:

- 1. Interrogatory No. 10 and Request for Production No. 9 regarding other complaints:** Defendant FCA US LLC shall, by **January 15, 2018**, serve responses to these discovery requests, with the responses limited to:

- (a) written complaints (defined as formal complaints to the FCA US Corporate Diversity Department or its predecessors), union grievances, complaints to the Equal Employment Opportunity Commission (EEOC) or Michigan Department of Civil Rights (MDCR), and lawsuits;
- (b) regarding: (1) claims of disability discrimination or a failure to accommodate a disability made by employees in the Inspection Department, and any (2) claims of race discrimination involving Terry Wyka; and
- (c) for the February 1, 2013 through April 11, 2017 time period.

2. **Request for Production No. 13 regarding communications about Plaintiff:** Defendant FCA US LLC shall, **by January 15, 2018**, respond to this request and produce:

- (a) all electronic communications in Defendant's possession regarding Plaintiff between Plaintiff's managers, supervisors, human resources personnel, and/or union officials. from January 1, 2015 to the present; and
- (b) all non-electronic communications regarding Plaintiff in the possession of Defendant's human resources personnel or Plaintiff's supervisor(s), from January 1, 2015 to the present.

**B. Request for Extension of Scheduling Order (DE 13)**

The Court will grant Plaintiff's request to extend the scheduling order dates, for good cause shown. The parties agreed to extend the dates in the Scheduling Order (DE 13) as follows:

Witness/amended witness lists (included experts): **February 28, 2018**

Completion of Discovery: **April 18, 2018**

Dispositive Motion Cut-off (*Filed By*): **May 15, 2018**

Finally, the Court declines to award costs to either side. Pursuant to Federal Rule of Civil Procedure 37, if a motion to compel is granted in part and denied in part, the Court may apportion reasonable expenses for the motion. Fed. R. Civ. P. 37(a)(5)(A). Here, both sides' positions were substantially justified and required rulings from the Court. As such, an award of costs would not be appropriate or just in this matter.

**IT IS SO ORDERED.**

Dated: December 12, 2017

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

**Certificate of Service**

I hereby certify that a copy of the foregoing document was sent to parties of record on December 12, 2017, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti